

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 668-E

Case No. 94-4M/89-31C

(Consolidated PUD & Map Amendment @ 500 5th Street, N.W.)

February 12, 1996

By Zoning Commission Order No. 668, dated July 9, 1990, the Zoning Commission for the District of Columbia approved the application of 488 Associate Limited Partnership, the Salvation Army, the Fraternal Order of Police and John W. and Vinard Parris for a consolidated review and approval of a planned unit development (PUD) and related amendment to the Zoning Map from SP-2 to C-3-C for lots 15-19, 24, 25, 821-823, and a closed public alley in Square 488, located at 500 5th Street, N.W.

Order No. 668 provided for the construction of a mixed-use commercial building with a height of 120 feet, a maximum floor area ratio (FAR) of 7.64, and a lot occupancy 99 percent. The approved PUD was subject to certain guidelines, conditions and standards.

By letter dated October 3, 1990, counsel for the applicant requested the Zoning Commission to modify the second sentence in condition No. 6 of Z.C. Order No. 668, relating to ingress and egress. The letter also requested the Commission to extend the validity of the PUD for two years.

By Z.C. Order No. 668-A, dated November 19, 1990, the Commission approved and modified Condition No. 6 to read as follows:

"The applicant shall provide two lanes "in" and either one or two lanes "out" for vehicular traffic in the interior of the parking garage."

By Z.C. Order No. 668-B, dated August 5, 1991, the Commission granted the applicant's second request and extended the validity of Z.C. Order Nos. 668 and 668-A for a period of two years, that is until July 27, 1994 and construction to start not later than July 27, 1995.

Counsel for the applicant, in a letter dated November 24, 1993, requested a two-year extension of the validity of Z.C. Order Nos. 668 and 668-A, to enable the applicant to secure a lead tenant and financing.

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By Order No. 668-C, the Commission extended the validity of Z.C. Order Nos. 668, 668-A and 668-B for a period of two years, that is until July 27, 1996 for filing an application for a building permit as specified in 11 DCMR 2406.8. Construction to start not later than July 27, 1997.

On March 10, 1994, the applicant filed an application requesting the Commission to modify the previously approved and modified PUD.

This application requested modification of the existing PUD to include as an alternative development, the adjacent Lots 833 and 842 at the northern end of Square 488. That property is the site of a District of Columbia Fire Station and is owned by the District of Columbia. Lots 833 and 842 are presently unzoned. The applicant also requested that the property be zoned C-3-C to be consistent with the zoning of the remainder of the square as approved by the Commission in Z.C. Order No. 668.

By Z.C. Order No. 668-D, dated November 14, 1994, the Zoning Commission approved modification to the PUD. Z.C. Order No. 668-D provided for an office/retail building with a gross floor area (including the fire station) of 448,525 square feet, an FAR of 7.64, height of 120 feet and 212 off-street parking spaces with a potential for approximately 313 parking spaces through a stacked parking scheme, and a minimum of ten bicycle parking spaces, or in the alternative to proceed under the original PUD approval contained in previous Z.C. Order Nos. 668, 668-A, 668-B and 668-C.

The validity of Z.C. Order No. 668-D was for two years, that is until December 9, 1996 to file for a building permit, and construction to commence not later than December 9, 1997.

By a letter dated September 21, 1995, counsel for the applicant filed a motion for the extension of Z.C. Order Nos. 668, 668-A, 668-B, 668-C and 668-D for two years. The motion requested that Z.C. Order Nos. 668, 668-A, 668-B and 668-C be extended to July 27, 1998 to file for a building permit, and construction to commence no later than July 27, 1998, and Z.C. Order No. 668-D to be extended to December 9, 1998 to file for a building permit, and construction to begin no later than December 9, 1999.

The applicant's motion for extension stated the following as the basis for the extension:

1. The original PUD approval, Order No. 668, became final on July 27, 1990, and the Applicant has vigorously sought potential tenants as noted below. The Commission's Order in Paragraph 11 of the decision allows the Applicant certain flexibility to

be reflected in the working drawings. This flexibility was requested by Applicant and is essential to permit the building to be designed to address the particular needs and requirements of a lead tenant. Therefore, it is necessary that the Applicant be given additional time to defer final design and submission of working drawings since the lead tenant will want and require input on these matters.

2. The applicant has not proceeded with construction since the PUD's approval solely because of unfavorable market conditions. These conditions have placed a halt on almost all new private construction projects in the past six years. The Applicant has been unable to secure financing to allow the project to proceed without a lead tenant in place and the project substantially pre-leased.
3. The unfavorable market conditions and the Applicant's continuous actions to market the project, including the PUD modification to utilize the air rights over the fire house, are both highly relevant to the demonstration of good cause. On the basis of these factors, an extension for good cause shown is merited without a hearing.

The counsel for the applicant also indicated that copies of the motion for extension were served to Advisory Neighborhood Commission (ANC) 6A within whose jurisdiction the property now situated because of redistricting, and to all parties in the case.

By memorandum dated, October 19, 1995, the District of Columbia Office of Zoning (OZ) referred the extension request to the District of Columbia Office of Planning (OP) for an analysis of whether any amendments to the Zoning Map or Regulations, or to the Comprehensive Plan, since the Zoning Commission initially decided the case would affect this request.

The Office of Planning (OP), by memorandum dated November 3, 1995, analyzed the motion for extension and found that neither the Zoning Regulations and Map nor the Comprehensive Plan, as they relate to the project, have changed since the Zoning Commission originally approved the PUD.

The OP added that no purpose will be served by denying the extension. Accordingly, the OP recommended that the Commission extend the validity of the PUD for two years.

The OZ received no additional comments on this matter from ANC-6A, nor any other party or persons.

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On November 13, 1995, at its regular monthly meeting, the Zoning Commission reviewed and considered the motion for extension, the OP report and verbal comments from counsel for the applicant.

The Commission concurred with the applicant and the OP recommendation that a two-year extension of the validity of Z.C. Order Nos. 668, 668-A, 668-B, 668-C and 668-D is appropriate.

The Commission believes that an extension of time, as requested by the applicant, is not unreasonable, that the rationale for granting approval for the PUD has not changed, and that no adverse consequences will result from approving the request.

The Commission determined that an extension of time, as requested by the applicant, is in the best interest of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

Pursuant to 11 DCMR 2406.10 of the Zoning Regulations, the Zoning Commission believes that the applicant has shown good cause for the extension of time without further public hearing.


In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia **ORDERS** that the validity of Z.C. Order Nos. 668, 668-A, 668-B, 668-C be **EXTENDED** for a period of two years; that is until July 27, 1998, to file for a building permit, and construction to begin no later than July 27, 1999. The Zoning Commission further **ORDERS** that Z.C. Order No. 668-D be **EXTENDED** for a period of two years; that is, until December 9, 1998 prior to the expiration of that time, the applicant shall file for a building permit as specified in 11 DCMR 2406.8, construction will begin no later than December 9, 1999.

Vote of the Zoning Commission taken at its public meeting on December 11, 1995: 4-0: (John G. Parsons, Maybelle Taylor Bennett, William L. Ensign to extend, Jerrily R. Kress, to extend by absentee vote).


This order was adopted by the Zoning Commission at its public meeting on February 12, 1996, by a vote of 4-0: (Maybelle Taylor Bennett, William L. Ensign and Jerrily R. Kress to adopt, and John G. Parsons, to adopt by absentee vote).

In accordance with the provisions of 11 DCMR 3028.8, this order is final and effective upon publication in the D.C. Register; that, is, on MAY 22 1996.

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JERRILY R. KRESS
Chairperson
Zoning Commission



MADELIENE H. DOBBINS
Director
Office of Zoning

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